

CATHERINE CORTEZ MASTO
Attorney General
A. WAYNE CARTER
Deputy Attorney General
Nevada State Bar No. 3696
Litigation Division
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101
Ph: (702) 486-3594
Fax: (702) 486-3773
Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

WILLIAM LEONARD,
Plaintiff,
v.

ELDON K. MC DANIEL, Warden,
Ely, Nevada State Prison;
GLEN WHORTON, Director,
Nevada Department of corrections,
Defendants.

CASE NO. 3:06-cv-00559-RLH-RAM
ORDER ON

MOTION FOR ENLARGEMENT OF TIME
(THIRD REQUEST)

Defendants who have been properly named and served in this matter, ELDON K. MCDANIEL and GLEN WHORTON, by and through counsel CATHERINE CORTEZ MASTO, Attorney General, and A. WAYNE CARTER, Deputy Attorney General, hereby file this Motion for Enlargement of Time (Third Request) in which to respond to Plaintiff's Complaint in the above-referenced matter. This motion is brought pursuant to Fed. R. Civ. P. 6(b), LR 6-1 and LR 6-2, the attached points and authorities, and the papers and pleadings on file with the Court.

MEMORANDUM OF POINTS AND AUTHORITIES

I. NATURE OF THE MOTION

A response to Plaintiff's Complaint is currently due on March 9, 2007.

1 **II. FACTS**

2 Plaintiff is an inmate currently incarcerated in the Nevada Department of Corrections at
 3 Ely State Prison in Ely Nevada. Plaintiff filed his Complaint in this action in the State of
 4 Nevada's Seventh Judicial District Court on September 8, 2006. The case was later removed
 5 to the United States District Court, District of Nevada, on October 19, 2006. The Federal
 6 District Court granted Defendants' First Request, Motion for Enlargement of Time, until
 7 January 28, 2007 to Answer or otherwise plead to the Complaint. (CD#7) On January 31,
 8 2007, the instant Court granted Defendants' second enlargement of time request to respond
 9 or answer by March 9, 2007.

11 **III. ARGUMENT**

12 On March 6, 2007, pursuant to the undersigned's Motion to Stay Discovery, the Court
 13 ordered that the due date for the Defendants' discovery responses to the Plaintiff be continued
 14 to thirty (30) days from the filing of Defendants' Answer or other response.

15 The Defense requested numerous case-related documents and information from its
 16 clients (in northern Nevada) and, thus far, has received, up to and including March 6, 2007,
 17 over seven (7) inches of documents to review.

18 Forty (40) days are required to fully review and evaluate the case file, converse with the
 19 Defendants, perform legal research and case evaluation, before responding to the plaintiff's
 20 Complaint. (See affidavit of Counsel attached hereto as Exhibit "A").

21 Judges have wide discretion in managing their dockets. *See Hernandez v. City of El*
 22 *Monte*, 138 F.3d 393, 399 (9th Cir. 1998). Also, see Fed. R. Civ. P. 6(b) (advisory committee
 23 note, 1946) ("Rule 6(b) is a rule of general application giving wide discretion to the court to
 24 enlarge these time limits or revive them after they have expired...").

25 ////

26 ////

27 ////

IV. CONCLUSION

WHEREFORE, Counsel respectfully requests a forty (40) day enlargement of time, up to and including **April 18, 2007**, for the Defendants to file an Answer or response in this matter.

This request is made in good faith and not for the reason of delay.

DATED this 9th day of March, 2007.

CATHERINE CORTEZ MASTO
Attorney General

By: _____/s/_____
A. WAYNE CARTER
Deputy Attorney General
Litigation Division

IT IS SO ORDERED:



UNITED STATES MAGISTRATE JUDGE _____

DATED: March 9, 2007 _____

THERE SHALL BE NO FURTHER
EXTENSIONS GRANTED.

CERTIFICATE OF SERVICE

I, Juanita McClinton, hereby certify that I am an employee of the Office of the Attorney General and that on the 9th day of March 2007, I served the foregoing **MOTION FOR ENLARGEMENT OF TIME (THIRD REQUEST)**, by causing a true copy thereof to be filed with the Clerk of the Court using the CM/ECF system, and by causing a true copy to be delivered to the Department of General Services, for mailing at Las Vegas, Nevada, addressed to:

William Leonard, #16830
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301-1989

/s/
An employee of the Office of the Attorney General

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

AFFIDAVIT OF A. WAYNE CARTER

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, A. WAYNE CARTER, being first duly sworn under oath, depose and state as follows:

1. I am an attorney licensed to practice law in the State of Nevada; that I am qualified and admitted to practice before this Court; and that I am employed as a Deputy Attorney General in the Office of the Nevada Attorney General in the Litigation Division and pursuant to that employment, I have been assigned to represent the Defendants in the matter entitled *William Leonard v. McDaniel, et al.*, United States District Court, District of Nevada, case number 3:06-cv-00559; and as such, have personal knowledge of the matters contained herein.

2. Within the past few weeks, your affiant, a Deputy Attorney General, Litigation Division, Office of the Attorney General, State of Nevada, was assigned the responsibility as the sole Defense Counsel of all of the State and Federal litigation cases including the instant case (*Leonard v. McDaniel*, Case No. 3:06-cv-00559-RLH-RAM, USDC, District of Nevada), previously handled by the Division's Defense Counsel, J. Marty Howard, Senior Deputy Attorney General.

3. Plaintiff is an inmate currently incarcerated in the Nevada Department of Corrections at Ely State Prison in Ely Nevada. Plaintiff filed his Complaint in this action in the State of Nevada's Seventh Judicial District Court on September 8, 2006. The case was later removed to the United States District Court, District of Nevada, on October 19, 2006. The Federal District Court granted Defendants' First Request, Motion for Enlargement of Time, until January 28, 2007 to Answer or otherwise plead to the Complaint. (CD#7) On January 31, 2007, the instant Court granted Defendants' second enlargement of time request to respond or answer by March 9, 2007.

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

4. On March 6, 2007, pursuant to the undersigned's Motion to Stay Discovery, the Court ordered that the due date for the Defendants' discovery responses to the Plaintiff be continued to thirty (30) days from the filing of Defendants' Answer or other response.

5. The Defense requested numerous case-related documents and information from its clients (in northern Nevada) and, thus far, has received, up to and including March 6, 2007, over seven (7) inches of documents to review.

6. Forty (40) days are required to fully review and evaluate the case file, converse with the Defendants, perform legal research and case evaluation, before responding to the Plaintiff's Complaint.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

A. WAYNE CARTER

SUBSCRIBED and SWORN to before me
this 9th day of March, 2007.

NOTARY PUBLIC in and for said
County and State

